

**ASSEMBLY BILL**

**No. 2364**

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**Introduced by Assembly Member Wagner**

February 24, 2012

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An act to amend Sections 482.070, 488.455, 488.460, 488.600, 488.610, 684.110, 700.140, 700.150, 700.160, 701.030, and 703.570 of, and to add Sections 684.115 and 701.015 to, the Code of Civil Procedure, to amend Sections 1450 and 1620 of the Financial Code, and to amend Section 1755 of the Unemployment Insurance Code, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 2364, as introduced, Wagner. Civil procedure: attachment.

Existing law establishes procedures for service of various legal processes on financial institutions, and procedures for attachment and execution of levies served on financial institutions. Existing law requires service in connection with a levy to be made upon the branch or at the office that has actual possession of the property levied upon, or where the deposit account levied upon is carried, as specified.

This bill would instead require a financial institution that has more than 9 branch offices in California to designate one or more central locations for service of legal process within the state, and would authorize a financial institution with fewer than 9 branch offices in California to do the same. The bill would establish procedures for service of process and execution of levies at a financial institution's central locations and other branches. The bill would require financial institutions designating central locations to file a notice of the designation with the Department of Financial Institutions. The bill would require the department to update its online records to reflect the designation, and

would require the department to provide a copy of the current notice to any person upon request, as specified. The bill would establish procedures for a judgment creditor to engage in a levy action against a specific deposit account or safe deposit box at a financial institution, including by filing a written request with the financial institution for enforcement against the account or safe deposit box. The bill would require the request to contain specified information and to be signed under penalty of perjury.

By expanding the scope of the offense of perjury, this bill would impose a state-mandated local program.

The bill would require a levying officer to give at least 3 days' notice to the judgment creditor regarding opening and seizing the contents of a safe deposit box pursuant to these provisions, as specified.

The bill would establish procedures for a financial institution to use when a judgment debtor is identified in a legal process by a name that is similar, but not identical to the name in which a deposit account or safe deposit box stands.

The bill would make additional conforming changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 482.070 of the Code of Civil Procedure
- 2     is amended to read:
- 3     482.070. (a) (1) Except as otherwise provided in this title, ~~a~~
- 4     ~~writ, notice, order, or other paper~~ legal process required or
- 5     permitted to be served under this title may be served personally
- 6     or by mail.
- 7     (2) *For purposes of this title, the term "legal process" shall*
- 8     *refer to each and all of the writs, notices, orders, or other papers*
- 9     *required to be served pursuant to this title.*
- 10    (b) Except as otherwise provided in this section, service of ~~a~~
- 11    ~~writ, notice, order, or other paper~~ legal process under this title is
- 12    governed by Article 1 (commencing with Section 684.010) and

Article 2 (commencing with Section 684.110) of Chapter 4 of Division 1 of Title 9, including the provisions of Section 684.120 extending time when service is made by mail.

(c) For the purpose of subdivision (b), in Article 1 (commencing with Section 684.010) and Article 2 (commencing with Section 684.110) of Chapter 4 of Division 1 of Title 9:

(1) References to the “judgment debtor” shall be deemed references to the defendant.

(2) References to the “judgment creditor” shall be deemed references to the plaintiff.

(3) References to a “writ” shall be deemed references to a writ of attachment.

(4) References to a “notice of levy” shall be deemed references to a notice of attachment.

(d) If the defendant has not appeared in the action and a writ, notice, order, or other paper legal process is required to be personally served on the defendant under this title, service shall be made in the same manner as a summons is served under Chapter 4 (commencing with Section 413.10) of Title 5.

(e) Except for service of a subpoena or other process to require the attendance of the defendant or service of a paper to bring the defendant into contempt, if the defendant has an attorney of record in the action, service shall be made on the attorney rather than on the defendant.

(f) Proof of service under this title is governed by Article 3 (commencing with Section 684.210) of Chapter 4 of Division 1 of Title 9.

SEC. 2. Section 488.455 of the Code of Civil Procedure is amended to read:

488.455. (a) Subject to ~~Section~~ Sections 488.465 and 684.115, to attach a deposit account, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment levy on the financial institution with which the deposit account is maintained, or shall personally serve the writ of attachment and notice of attachment on a centralized location within the county designated by the financial institution. If the writ of attachment is received at the designated central location, it shall apply to all deposit accounts held by the financial institution regardless of the location of that property. The attachment lien

1     (b) *The attachment lien that arises upon service of a writ of*  
2 *attachment and notice of levy reaches only amounts in the a deposit*  
3 *account at the time of service on the financial institution, including*  
4 *the amount of any item in the deposit account that is in the process*  
5 *of being deposit not yet finally collected, unless the item deposit*  
6 *is returned unpaid to the financial institution. This section does*  
7 *not require a financial institution to designate a central location*  
8 *for personal service of the writ and notice of attachment.*

9     ~~(b) At the time of levy or promptly thereafter, the~~

10    (c) *The levying officer shall serve a copy of the writ of*  
11 *attachment and a notice of attachment levy on any third person in*  
12 *whose name the any deposit account stands. described therein*  
13 *stands. That service shall be made personally or by mail as follows:*

14     (1) *At the time of levy or promptly thereafter, if the party seeking*  
15 *the levy informs the levying officer of that person and his, her, or*  
16 *its residence or business address.*

17     (2) *Promptly following the levying officer's receipt of a*  
18 *garnishee's memorandum if service was not accomplished pursuant*  
19 *to paragraph (1), if the garnishee's memorandum identifies that*  
20 *person and his, her, or its residence or business address.*

21    ~~(e) During the time the attachment lien is in effect, the financial~~  
22 ~~institution shall not honor a check or other order for the payment~~  
23 ~~of money drawn against, and shall not pay a withdrawal from, the~~  
24 ~~deposit account that would reduce the deposit account to an amount~~  
25 ~~that is less than the amount attached. For the purposes of this~~  
26 ~~subdivision, in determining the amount of the deposit account, the~~  
27 ~~financial institution shall not include the amount of items deposited~~  
28 ~~to the credit of the deposit account that are in the process of being~~  
29 ~~collected.~~

30    (d) *The financial institution shall not honor a withdrawal request*  
31 *or a check or other order for the payment of money from the*  
32 *deposit account if presentation of that withdrawal request or item*  
33 *to the financial institution occurs during the time the attachment*  
34 *lien is in effect unless, following that withdrawal or payment,*  
35 *sufficient funds are available to cover the levy. For these purposes,*  
36 *a withdrawal from the deposit account to cover the financial*  
37 *institution's standard fee or charge for processing the levy shall*  
38 *not be considered a payment of money from the account in violation*  
39 *of this subdivision.*

40    ~~(d)~~

1 (e) During the time the attachment lien is in effect, the financial  
2 institution is not liable to any person for any of the following:

3 (1) Performance of the duties of a garnishee under the  
4 ~~attachment~~ levy.

5 (2) Nonpayment of a check or other order for the payment *or*  
6 *transfer* of money drawn or presented against the deposit account  
7 if the nonpayment is pursuant to the requirements of subdivision  
8 ~~(e)~~ (d).

9 (3) Refusal to pay a withdrawal from the deposit account if the  
10 refusal is pursuant to the requirements of subdivision ~~(e)~~ (d).

11 ~~(e) When the amount attached pursuant to this section is paid~~  
12 ~~to the levying officer, the attachment lien on the attached deposit~~  
13 ~~account terminates.~~

14 (f) For the purposes of this section, ~~neither~~ *none* of the following  
15 is a third person in whose name the deposit account stands:

16 (1) A person who is only a person named as the beneficiary of  
17 a Totten trust account.

18 (2) A person who is only a payee designated in a pay-on-death  
19 provision in an account pursuant to Section 18318.5 of the  
20 Financial Code or Section 5140 of the Probate Code, or other  
21 similar provision.

22 (3) *A person who is only acting in a representative or custodial*  
23 *capacity with respect to benefits paid or payable by the United*  
24 *States government. Rather, accounts maintained by the*  
25 *representative or custodian shall be deemed to stand in that*  
26 *beneficiary's name, and the amounts therein shall be covered by*  
27 *a levy against that beneficiary.*

28 (g) *For purposes of this section, final payment of a deposit shall*  
29 *be deemed to have occurred in accordance with Section 4215 or*  
30 *11210 of the Commercial Code or with automated clearinghouse*  
31 *or Federal Reserve System rule, regulation, operating circular,*  
32 *or similar governing document, as applicable to the deposit. If,*  
33 *for any reason, a deposit is returned by the financial institution*  
34 *upon which it is drawn, that deposit shall not be deemed finally*  
35 *collected for purposes of this subdivision regardless of any later*  
36 *payment by the financial institution upon which the deposit is*  
37 *drawn.*

38 ~~(g)~~

39 (h) When a deposit account has been attached, as an alternative  
40 to paying the amount of the deposit account that is attached to the

levying officer as required by Section 488.600, the financial institution may continue to hold the deposit account until the deposit account is levied upon after judgment in the action or is earlier released, the deposit account to be held in one of the following manners:

(1) If the entire deposit account is attached, the financial institution may hold the deposit account on the terms applicable before the attachment, subject to the requirements of subdivision ~~(e)~~ (d).

(2) If less than the entire deposit account is attached:

(A) With the consent of the defendant, and any third person in whose name the deposit account stands, the financial institution may hold in the deposit account on the same terms an amount larger than the attached amount as necessary to avoid a penalty or a reduction of the rate of interest.

(B) If the defendant, and any third person in whose name the deposit account stands, do not consent as provided in subparagraph (A), the financial institution may hold the attached amount on the same terms affecting the deposit account before the attachment, subject to the requirements of subdivision ~~(e)~~ (d).

(3) The financial institution may hold the attached deposit account in any other manner agreed upon by the plaintiff, the defendant, and any third person in whose name the deposit account stands.

~~(h)~~

(i) Subdivision ~~(g)~~ (h) does not prevent a financial institution that is holding an attached deposit account as provided in subdivision ~~(g)~~ (h) from paying the attached amount to the levying officer before the time the financial institution otherwise is required to pay the amount under subdivision ~~(g)~~ (h).

SEC. 3. Section 488.460 of the Code of Civil Procedure is amended to read:

488.460. (a) Subject to Section 488.465, to attach property in a safe-deposit box, the levying officer shall personally serve a copy of the writ of attachment and a notice of attachment on the financial institution with which the safe-deposit box is maintained.

(b) At the time of levy or promptly thereafter, the levying officer shall serve a copy of the writ of attachment and a notice of attachment on any third person in whose name the safe-deposit box stands.

1 (c) During the time the attachment lien is in effect, the financial  
2 institution may not permit the removal of any of the contents of  
3 the safe-deposit box except as directed by the levying officer.

4 (d) Upon receipt of a garnishee's memorandum from the  
5 financial institution, as required by Section 488.610, indicating a  
6 safe-deposit box is under levy, the levying officer shall promptly  
7 mail a written notice to the judgment creditor demanding an  
8 additional fee as required by Section 26723 of the Government  
9 Code, plus the costs to open the safe-deposit box and seize and  
10 store the contents. The levying officer shall release the levy on the  
11 safe-deposit box if the plaintiff does not pay the required fee, plus  
12 costs, within three business days plus the extended time period  
13 specified in subdivision (a) of Section 1013 for service by mail by  
14 the levying officer.

15 (e) The levying officer may first give the person in whose name  
16 the safe-deposit box stands an opportunity to open the safe-deposit  
17 box to permit the removal pursuant to the attachment of the  
18 attached property. The financial institution may refuse to permit  
19 the forcible opening of the safe-deposit box to permit the removal  
20 of the attached property unless the plaintiff *or levying officer* pays  
21 in advance the cost of forcibly opening the safe-deposit box and  
22 of repairing any damage caused thereby.

23 (f) During the time the attachment lien is in effect, the financial  
24 institution is not liable to any person for any of the following:

25 (1) Performance of the duties of a garnishee under the  
26 attachment.

27 (2) Refusal to permit access to the safe-deposit box by the person  
28 in whose name it stands.

29 (3) Removal of any of the contents of the safe-deposit box  
30 pursuant to the attachment.

31 (g) *If the levying officer removes any property from the safe*  
32 *deposit box to satisfy the levy, but allows other property to remain*  
33 *in the safe deposit box, the attachment lien is released*  
34 *automatically with respect to any property that remains in the safe*  
35 *deposit box.*

36 SEC. 4. Section 488.600 of the Code of Civil Procedure is  
37 amended to read:

38 488.600. (a) Sections 701.010, 701.015, 701.020, 701.040,  
39 701.050, 701.060, and 701.070 prescribe duties and liabilities of  
40 a third person under a levy made under this title.

(b) For the purposes of this section, references in Sections 701.010, 701.015, 701.020, 701.040, 701.050, and 701.060 to:

(1) “Amount required to satisfy the judgment” shall be deemed references to the amount required to satisfy the amount to be secured by the attachment.

(2) “Execution lien” or “lien” shall be deemed references to the attachment lien.

(3) “Judgment creditor” shall be deemed references to the plaintiff.

(4) “Judgment debtor” shall be deemed references to the defendant.

(5) “Levy” shall be deemed references to levy of attachment.

(6) “Notice of levy” shall be deemed references to notice of attachment.

(7) “Release” of property shall be deemed references to release of property pursuant to this title.

(8) “Satisfaction or discharge of the judgment” shall be deemed references to the satisfaction or termination of the attachment.

(9) “Writ” or “writ of execution” shall be deemed references to a writ of attachment.

(c) For the purposes of this section, references in Section 701.070 to:

(1) “Levy” shall be deemed references to levy of attachment.

(2) “Notice of the levy” shall be deemed references to notice of attachment.

SEC. 5. Section 488.610 of the Code of Civil Procedure is amended to read:

488.610. (a) At the time of service of a copy of the writ of attachment and a notice of attachment on a third person, the levying officer shall request the third person to give the levying officer a garnishee’s memorandum containing the information required by this section. Within 10 days after the request is made, the third person shall mail or deliver the garnishee’s memorandum to the levying officer whether or not the levy is effective.

(b) The garnishee’s memorandum shall be executed under oath and shall contain the following information:

(1) A description of any property of the defendant sought to be attached that is not delivered to the levying officer and the reason for not delivering the property.



1 (2) A statement of the amount and terms of any obligation to  
2 the defendant sought to be attached that is due and payable and is  
3 not paid to the levying officer and the reason for not paying the  
4 obligation.

5 (3) A statement of the amount and terms of any obligation to  
6 the defendant sought to be attached that is not due and payable at  
7 the time of levy.

8 (4) A description of claims and rights of other persons to the  
9 attached property or obligation that are known to the third person  
10 and the names and addresses of those other persons.

11 (5) *A statement that the garnishee holds neither any property*  
12 *nor any obligations in favor of the judgment debtor.*

13 (6) *Any information required to be included pursuant to*  
14 *paragraph (1) of subdivision (b) of Section 701.015.*

15 (c) If a garnishee's memorandum is received from the third  
16 person, the levying officer shall promptly mail or deliver a copy  
17 of the memorandum to the plaintiff and attach the original to the  
18 writ when it is returned to the court. If a garnishee's memorandum  
19 is not received from the third person, the levying officer shall so  
20 state in the return.

21 (d) Except as provided in subdivisions (e) and (f), if a third  
22 person does not give the levying officer a garnishee's memorandum  
23 within the time provided in subdivision (a) or does not provide  
24 complete information, the third person may, in the court's  
25 discretion, be required to pay the costs and reasonable attorney's  
26 fees incurred in any proceedings to obtain the information required  
27 in the garnishee's memorandum.

28 (e) Notwithstanding subdivision (a), where a deposit account  
29 or property in a safe deposit box is attached, the financial institution  
30 need not give a garnishee's memorandum to the levying officer if  
31 the financial institution fully complies with the levy and, if a  
32 garnishee's memorandum is required, the garnishee's memorandum  
33 need provide information with respect only to property which is  
34 carried on the records available at the office or branch where the  
35 levy is made, *unless the levy has been served at a central location*  
36 *designated by a financial institution in accordance with Section*  
37 *684.115, in which case the garnishee's memorandum shall apply*  
38 *to all offices and branches of the financial institution except to the*  
39 *extent acceptance of the levy at that central location is limited*  
40 *pursuant to paragraph (3) of subdivision (a) of Section 684.115.*

(f) Notwithstanding subdivision (a), the third person need not give a garnishee's memorandum to the levying officer if both of the following conditions are satisfied:

(1) The third person has delivered to the levying officer all of the property sought to be attached.

(2) The third person has paid to the levying officer the amount due at the time of levy on any obligation to the defendant that was attached and there is no additional amount that thereafter will become payable on the obligation levied upon.

SEC. 6. Section 684.110 of the Code of Civil Procedure is amended to read:

684.110. (a) *(1) Subject to subdivisions (b), (c), and (d), if a writ, notice, order, or other paper legal process is required to be personally served under this title, service shall be made in the same manner as a summons is served under Chapter 4 (commencing with Section 413.10) of Title 5.*

*(2) For purposes of this title, the term "legal process" shall refer to each and all of the writs, notices, orders, or other papers required or permitted to be served pursuant to this title.*

(b) If the ~~paper~~ legal process is required to be personally served under this title and service on an attorney is required under Article 1 (commencing with Section 684.010), service shall be made on the attorney in the manner provided in Section 684.040.

(c) If the ~~service is~~ legal process is required to be personally served on (1) a financial institution in connection with a deposit account or with property held for safekeeping, as collateral for an obligation owed to the financial institution or in a safe deposit box, (2) a title insurer (as defined in Section 12340.4 of the Insurance Code) or underwritten title company (as defined in Section 12340.5 of the Insurance Code), or (3) an industrial loan company (as defined in Section 18003 of the Financial Code), service shall be made at the office or branch that has actual possession of the property levied upon or at which a deposit account levied upon is carried and shall be made upon the officer, manager, or other person in charge of the office or branch at the time of service. *For purposes of this section, the office or branch at which a deposit account levied upon is carried shall mean the branch, office, or other location where the financial institution maintains the account.*

1 ~~(d) Subject to subdivision (c), if a levy is made by personally~~  
2 ~~serving a copy of the writ and notice of levy on a third person,~~  
3 ~~service on the third person shall be made in the same manner as a~~  
4 ~~summons may be served under Section 415.10 or 415.20.~~

5 *(d) Notwithstanding subdivision (c), with respect to legal process*  
6 *served on a financial institution, if the financial institution has*  
7 *designated a central location for service of legal process pursuant*  
8 *to Section 684.115, unless the financial institution elects to treat*  
9 *legal process served at a branch or office as effective, that legal*  
10 *process so served on the branch or office will not reach those*  
11 *accounts or property and need not be reported on the financial*  
12 *institution's garnishee memorandum.*

13 *(e) Notwithstanding subdivision (c), a financial institution, title*  
14 *insurer, or industrial loan company, in its discretion and without*  
15 *violating any obligation to its customer, may act upon service of*  
16 *legal process at any of its offices or branches, whether or not the*  
17 *office or branch is the location wherein accounts or property that*  
18 *may be reached by the process is or are maintained or located.*

19 SEC. 7. Section 684.115 is added to the Code of Civil  
20 Procedure, to read:

21 684.115. (a) A financial institution may, and if it has more  
22 than nine branch offices at which it conducts its business within  
23 California, shall, designate one or more central locations for service  
24 of legal process within California. If a financial institution elects  
25 or is required to designate a central location for service of legal  
26 process, the financial institution shall file a notice of its designation  
27 with the Department of Financial Institutions, which filing shall  
28 be effective upon filing and shall contain all of the following:

29 (1) The physical address of the central location.

30 (2) The days and hours during which service will be accepted  
31 at the central location.

32 (3) If the central location will not accept service of legal process  
33 directed at deposit accounts maintained or property held at all of  
34 the financial institution's branches within California, or if the  
35 service accepted at the central location will not apply to safe  
36 deposit boxes or other property of the judgment debtor held by or  
37 for the judgment debtor, the filing shall also contain sufficient  
38 information to permit a determination of the limitation or  
39 limitations, including, in the case of a limitation applicable to  
40 certain branches, an identification of the branches as to which

1 service at the central location will not apply and the nature of the  
2 limitation applicable to those branches. If the limitation will apply  
3 to all branches of the financial institution within California, the  
4 filing may indicate the nature of the limitation and that it applies  
5 to all branches, in lieu of an identification of branches as to which  
6 the limitation applies. To the extent that a financial institution's  
7 designation of a central location for service of legal process covers  
8 the process directed at deposit accounts, safe deposit boxes, or  
9 other property of the judgment debtor held by or for the judgment  
10 debtor at a particular branch located within California, the branch  
11 shall be a branch covered by central process.

12 (b) Should a financial institution required to designate a central  
13 location fail to do so, each branch of that institution located in  
14 California shall be deemed to be a central location at which service  
15 of legal process may be made, and all of the institution's branches  
16 located within California shall be deemed to be a branch covered  
17 by central process.

18 (c) Subject to any limitation noted pursuant to paragraph (3) of  
19 subdivision (a), service of legal process at a central location of a  
20 financial institution shall be effective against all deposit accounts  
21 and all property held for safekeeping, as collateral for an obligation  
22 owed to the financial institution or in a safe deposit box if the same  
23 is described in the legal process and held by the financial institution  
24 at any branch covered by central process and located within  
25 California. However, while service of legal process at the central  
26 location will establish a lien on all property, if any property other  
27 than deposit accounts is physically held by the financial institution  
28 in a county other than that in which the designated central location  
29 is located, the financial institution shall include in its garnishee's  
30 memorandum the location or locations of the property, and the  
31 judgment creditor shall obtain a writ of execution covering the  
32 property and directed to the levying officer in that county to  
33 accomplish the turnover of the property and shall forward the writ  
34 and related required documentation to the levying officer in the  
35 county in which the property is held.

36 (d) A financial institution may modify or revoke any designation  
37 made pursuant to subdivision (a) by filing the modification or  
38 revocation with the Department of Financial Institutions. The  
39 modification or revocation shall be effective when the Department  
40 of Financial Institutions' records have been updated to reflect the

1 modification or revocation, provided that the judgment creditor  
2 may rely upon the superseded designation during the 30-day period  
3 following the effective date of the revocation or modification.

4 (e) (1) The Department of Financial Institutions shall update its  
5 online records to reflect a filing by a financial institution pursuant  
6 to subdivision (a) or a modification or revocation filed by a  
7 financial institution pursuant to subdivision (d) within 10 business  
8 days following the filing by the financial institution. The  
9 Department of Financial Institutions' Web site shall reflect the  
10 date its online records for each financial institution have most  
11 recently been updated.

12 (2) The Department of Financial Institutions shall provide any  
13 person requesting it with a copy of each current filing made by a  
14 financial institution pursuant to subdivision (a). The Department  
15 of Financial Institutions may satisfy its obligation under this  
16 subdivision by posting all current designations of a financial  
17 institution, or the pertinent information therein, on an Internet Web  
18 site available to the public without charge, and if that information  
19 is made available, the Department of Financial Institutions may  
20 impose a reasonable fee for furnishing that information in any  
21 other manner.

22 (f) As to deposit accounts maintained or property held for  
23 safekeeping, as collateral for an obligation owed to the financial  
24 institution or in a safe deposit box at a branch covered by central  
25 process, service of legal process at any location other than a central  
26 location designated by the financial institution shall not be effective  
27 unless the financial institution, in its absolute discretion, elects to  
28 act upon the process at that location. For these purposes, the mere  
29 acceptance by an officer or employee of a financial institution of  
30 legal process at a place other than a central location designated for  
31 service of the process shall not be deemed to constitute an election  
32 to act upon that legal process, and any legal process improperly  
33 served may, in the bank's absolute discretion, be returned in due  
34 course, with a statement on the garnishee's memorandum that the  
35 legal process was not properly served at the financial institution's  
36 designated location for receiving legal process, and the address at  
37 which the financial institution is to receive legal process.

38 (g) If any legal process is served at a central location of a  
39 financial institution pursuant to this section, all related papers to  
40 be served on the financial institution shall be served at that location,

1 unless agreed to the contrary between the serving party and the  
2 financial institution.

3 (h) This subdivision shall apply whenever a financial institution  
4 operates within California at least one branch or office in addition  
5 to its head office or main office, as applicable, or a financial  
6 institution headquartered in another state operates more than one  
7 branch within California, and no central location has been designed  
8 or deemed to have been designated by the institution for service  
9 of legal process relating to deposit accounts maintained at the  
10 financial institution's head office or main office, as applicable,  
11 and branches located within California. If a judgment creditor  
12 reasonably believes that, pursuant to Section 700.140 and, if  
13 applicable, Section 700.160, any act of enforcement would be  
14 effective against a specific deposit account maintained at a financial  
15 institution described in this subdivision, the judgment creditor may  
16 file with the financial institution a written request that the financial  
17 institution identify the branch within California at which a specified  
18 account might be maintained by the financial institution. The  
19 written request shall contain the following statements or  
20 information:

21 (1) The name of the person reasonably believed by the judgment  
22 creditor to be a person in whose name the specified deposit account  
23 stands.

24 (2) If the name of the person reasonably believed by the  
25 judgment creditor to be a person in whose name the specified  
26 deposit account stands is not a judgment debtor identified in the  
27 writ of execution, a statement that a person reasonably believed  
28 by the judgment creditor to be a person in whose name the specified  
29 deposit account stands will be appropriately identified in the legal  
30 process to be served pursuant to Section 700.160, including any  
31 supplementary papers, such as a court order or affidavit if the same  
32 will be required by Section 700.160.

33 (3) The specific identifying number of the account reasonably  
34 believed to be maintained with the financial institution and standing  
35 in the name of the judgment debtor or other person.

36 (4) The address of the requesting party.

37 (5) A declaration by the judgment creditor or the judgment  
38 creditor's counsel stating substantially the following:  
39

1 “I hereby declare that this account location request complies  
2 with Section 684.115 of the Code of Civil Procedure, that the  
3 account or accounts of the judgment debtor or other person or  
4 persons appropriately identified in the legal process and specified  
5 herein are subject to a valid writ of execution, or court order, that  
6 I have a reasonable belief, formed after an inquiry reasonable under  
7 the circumstances, that the financial institution receiving this  
8 account location request has an account standing in the name of  
9 the judgment debtor or other person or persons appropriately  
10 identified in the legal process, and that information pertaining to  
11 the location of the account will assist the judgment creditor in  
12 enforcing the judgment.”  
13

14 (i) The request contemplated by subdivision (h) shall be signed  
15 by the judgment creditor or the judgment creditor’s counsel under  
16 penalty of perjury in accordance with the provisions of Section  
17 2015.5 and filed at the financial institution’s head office located  
18 within California or, if the financial institution’s head office is in  
19 another state, at one of its branches within California. Failure to  
20 comply with the requirements of subdivision (h) and this  
21 subdivision shall be sufficient basis for the financial institution to  
22 refuse to produce the information that would otherwise be required  
23 by subdivision (j).

24 (j) Within 10 banking days following receipt by a financial  
25 institution at the applicable location specified in subdivision (i) of  
26 a request contemplated by subdivision (h), as to each specific  
27 account identified in the request contemplated by subdivision (h),  
28 the financial institution shall respond by mailing, by first-class  
29 mail with postage prepaid, to the requestor’s address as specified  
30 in the request a response indicating the branch location of the  
31 financial institution at which the specified deposit account might  
32 be maintained, or, if the specified deposit account, if it exists,  
33 would not be maintained at a specific location, at least one place  
34 within California at which legal process relating to the deposit  
35 account should or may be served. The response to be furnished  
36 pursuant to this subdivision shall not require the financial  
37 institution to determine whether an account exists or, if an account  
38 does exist, whether it would be reached by the legal process, rather,  
39 the branch location shall be determined and reported by the  
40 financial institution based solely upon its determination that an

1 account with the identifying number provided by the requester  
2 would be maintained at that branch if an account did exist, and the  
3 response shall not contain any information about the name in which  
4 the account stands or any other information concerning the account,  
5 if it exists. If more than one account number is specified in the  
6 request, the financial institution's responses as to some or all of  
7 those account numbers may be combined in a single writing.

8 (k) A response furnished in good faith by the financial institution  
9 pursuant to subdivision (j) shall not be deemed to violate the  
10 privacy of any person in whose name the specified account stands  
11 nor the privacy of any other person, and shall not require the  
12 consent of the person in whose name the account stands nor that  
13 of any other person.

14 (l) A financial institution shall not notify the person in whose  
15 name the specified account stands or any other person related to  
16 the specified account of the receipt of any request made pursuant  
17 to this subdivision and affecting that person's or persons' accounts  
18 at the financial institution, provided that the financial institution  
19 shall have no liability for its failure to comply with the provisions  
20 of this subdivision.

21 SEC. 8. Section 700.140 of the Code of Civil Procedure is  
22 amended to read:

23 700.140. (a) Subject to ~~Section~~ *Sections 684.115 and 700.160*,  
24 to levy upon a deposit account, the levying officer shall personally  
25 serve a copy of the writ of execution and a notice of levy on the  
26 financial institution with which the deposit account is maintained;  
27 ~~or shall personally serve the writ of execution and notice of levy~~  
28 ~~to a centralized location within this state as designated by the~~  
29 ~~financial institution. If the writ of execution is received at the~~  
30 ~~designated central location, it shall apply to all deposit accounts~~  
31 ~~held by the financial institution regardless of the location of that~~  
32 ~~property. The execution lien reaches only amounts in the deposit~~  
33 ~~account at the time of service on the financial institution, including~~  
34 ~~any item in the deposit account that is in the process of being~~  
35 ~~collected, unless the item is returned unpaid to the financial~~  
36 ~~institution. This section does not require a financial institution to~~  
37 ~~designate a central location for personal service of the writ of~~  
38 ~~execution and notice of levy.~~

39 (b) *The execution lien that arises upon service of a writ of*  
40 *execution and notice of levy reaches only amounts in a deposit*



1 *account at the time of service on the financial institution, including*  
2 *the amount of any deposit not yet finally collected unless the*  
3 *deposit is returned unpaid to the financial institution.*

4 ~~(b) At the time of levy or promptly thereafter, the~~

5 *(c) The levying officer shall serve a copy of the writ of execution*  
6 *and a notice of levy on any third person in whose name the any*  
7 *deposit account described therein stands. Service shall be made*  
8 *personally or by mail: as follows:*

9 *(1) At the time of levy or promptly thereafter, if the party seeking*  
10 *the levy informs the levying officer of the person and his, her, or*  
11 *its residence or business address.*

12 *(2) Promptly following the levying officer's receipt of a*  
13 *garnishee's memorandum if service was not accomplished pursuant*  
14 *to paragraph (1) if the garnishee's memorandum identifies the*  
15 *person and his, her, or its residence or business address.*

16 ~~(e) During the time the execution lien is in effect, the financial~~  
17 ~~institution shall not honor a check or other order for the payment~~  
18 ~~of money drawn against, and shall not pay a withdrawal from, the~~  
19 ~~deposit account that would reduce the deposit account to an amount~~  
20 ~~that is less than the amount levied upon. For the purposes of this~~  
21 ~~subdivision, in determining the amount of the deposit account, the~~  
22 ~~financial institution shall not include the amount of items deposited~~  
23 ~~to the credit of the deposit account that are in the process of being~~  
24 ~~collected.~~

25 *(d) The financial institution shall not honor a withdrawal request*  
26 *or a check or other order for the payment of money from the*  
27 *deposit account if presentment of the withdrawal request or item*  
28 *to the financial institution occurs during the time the execution*  
29 *lien is in effect unless, following the withdrawal or payment,*  
30 *sufficient funds are available to cover the levy. For these purposes,*  
31 *a withdrawal from the deposit account to cover the financial*  
32 *institution's standard fee or charge for processing the levy shall*  
33 *not be considered a payment of money from the account in violation*  
34 *of this subdivision.*

35 ~~(d)~~

36 *(e) During the time the execution lien is in effect, the financial*  
37 *institution is not liable to any person for any of the following:*

38 *(1) Performance of the duties of a garnishee under the levy.*

39 *(2) Nonpayment of a check or other order for the payment or*  
40 *transfer of money drawn or presented against the deposit account*

1 if the nonpayment is pursuant to the requirements of subdivision  
2 ~~(e)~~ (d).

3 (3) Refusal to pay a withdrawal from the deposit account if the  
4 refusal is pursuant to the requirements of subdivision~~(e)~~ (d).

5 ~~(e)~~

6 (f) When the amount levied upon pursuant to this section is paid  
7 to the levying officer, the execution lien on the deposit account  
8 levied upon terminates.

9 ~~(f)~~

10 (g) For the purposes of this section, ~~neither~~ none of the following  
11 is a third person in whose name the deposit account stands:

12 (1) A person who is only a person named as the beneficiary of  
13 a Totten trust account.

14 (2) A person who is only a payee designated in a pay-on-death  
15 provision in an account pursuant to Section 18318.5 of the  
16 Financial Code or Section 5140 of the Probate Code, or other  
17 similar provision.

18 (3) *A person who is only acting in a representative or custodial*  
19 *capacity with respect to benefits paid or payable by the United*  
20 *States government. Rather, accounts maintained by the*  
21 *representative or custodian shall be deemed to stand in the*  
22 *beneficiary's name, and the amounts therein shall be covered by*  
23 *a levy against the beneficiary.*

24 (h) *For purposes of this section, final payment of a deposit shall*  
25 *be deemed to have occurred in accordance with Section 4215 or*  
26 *11210 of the Commercial Code or with automated clearinghouse*  
27 *or Federal Reserve System rule, regulation, operating circular,*  
28 *or similar governing document, as applicable to the deposit. If,*  
29 *for any reason, a deposit is returned by the financial institution*  
30 *upon which it is drawn, the deposit shall not be deemed finally*  
31 *collected for purposes of this subdivision regardless of any later*  
32 *payment by the financial institution upon which the deposit is*  
33 *drawn.*

34 SEC. 9. Section 700.150 of the Code of Civil Procedure is  
35 amended to read:

36 700.150. (a) Subject to Section 700.160, to levy upon property  
37 in a safe-deposit box, the levying officer shall personally serve a  
38 copy of the writ of execution and a notice of levy on the financial  
39 institution with which the safe-deposit box is maintained.

1 (b) At the time of *the* levy or promptly thereafter, the levying  
2 officer shall serve a copy of the writ of execution and a notice of  
3 levy on any third person in whose name the safe-deposit box stands.  
4 Service shall be made personally or by mail.

5 (c) During the time the execution lien is in effect, the financial  
6 institution may not permit the removal of any of the contents of  
7 the safe-deposit box except as directed by the levying officer.

8 (d) Upon receipt of a garnishee's memorandum from the  
9 financial institution, ~~as required by Section 701.030,~~ indicating a  
10 safe-deposit box is under levy, the levying officer shall promptly  
11 mail a written notice to the judgment creditor demanding an  
12 additional fee as required by Section 26723 of the Government  
13 Code, plus the costs to open the safe-deposit box and seize and  
14 store the contents. The levying officer shall release the levy on the  
15 safe-deposit box if the judgment creditor does not pay the required  
16 fee, plus costs, within three business days plus the extended time  
17 period specified in subdivision (a) of Section 1013 for service by  
18 mail by the levying officer.

19 (e) The levying officer may first give the person in whose name  
20 the safe-deposit box stands an opportunity to open the safe-deposit  
21 box to permit the removal pursuant to the levy of the property  
22 levied upon. The financial institution may refuse to permit the  
23 forcible opening of the safe-deposit box to permit the removal of  
24 the property levied upon unless the *levying officer or the* judgment  
25 creditor pays in advance the cost of forcibly opening the  
26 safe-deposit box and of repairing any damage caused thereby.

27 (f) *The levying officer shall give the judgment creditor at least*  
28 *three court days advance notice of the date and time the levying*  
29 *officer will open the safe deposit box and seize the contents thereof,*  
30 *and the judgment creditor shall be entitled to be present at that*  
31 *time.*

32 (f)

33 (g) During the time the execution lien is in effect, the financial  
34 institution is not liable to any person for any of the following:

35 (1) Performance of the duties of a garnishee under the levy.

36 (2) Refusal to permit access to the safe-deposit box by the person  
37 in whose name it stands.

38 (3) Removal of any of the contents of the safe-deposit box  
39 pursuant to the levy.

1     (h) *If the levying officer removes any property from the safe*  
2     *deposit box to satisfy the levy, but allows other property to remain*  
3     *in the safe deposit box, the execution lien is released automatically*  
4     *with respect to any property that remains in the safe deposit box.*

5     SEC. 10. Section 700.160 of the Code of Civil Procedure is  
6     amended to read:

7     700.160. (a) Except as provided in subdivision (b), a deposit  
8     account or safe-deposit box standing in the name of a person other  
9     than the judgment debtor, either alone or together with other third  
10    persons, is not subject to levy under Section 700.140 or 700.150  
11    unless the levy is authorized by court order. ~~The levying officer~~  
12    ~~shall serve a copy of the court order on the third person at the time~~  
13    ~~the copy of the writ of execution and the notice of levy are served~~  
14    ~~on the third person legal process served on the third party includes~~  
15    *a court order authorizing the levy.*

16    (b) A court order is not required as a prerequisite to levy on a  
17    deposit account or safe-deposit box standing in the name of any  
18    of the following:

19    (1) The judgment debtor, whether alone or together with third  
20    persons.

21    (2) The judgment debtor's spouse *or registered domestic*  
22    *partner*, whether alone or together with other third persons. ~~An,~~  
23    ~~provided an affidavit showing that the person in whose name the~~  
24    ~~account stands is the judgment debtor's spouse shall be~~ *is delivered*  
25    *to the financial institution at the time of levy showing that person*  
26    ~~is the judgment debtor's spouse or registered domestic partner.~~

27    ~~(3) A fictitious business name if an unexpired fictitious business~~  
28    ~~name statement filed pursuant to Chapter 5 (commencing with~~  
29    ~~Section 17900) of Part 3 of Division 7 of the Business and~~  
30    ~~Professions Code lists as the persons doing business under the~~  
31    ~~fictitious business name either (A) the judgment debtor or (B) the~~  
32    ~~judgment debtor's spouse or (C) the judgment debtor and the~~  
33    ~~judgment debtor's spouse, but does not list any other person. A~~  
34    ~~copy of a fictitious business name statement, certified as provided~~  
35    ~~in Section 17926 of the Business and Professions Code, that~~  
36    ~~satisfies these requirements shall be delivered to the financial~~  
37    ~~institution at the time of levy, and if a person other than the~~  
38    ~~judgment debtor is listed in the statement, an affidavit showing~~  
39    ~~that the other person is the judgment debtor's spouse shall also be~~  
40    ~~delivered to the financial institution at the time of levy.~~

1     (3) *A fictitious business name, provided a copy of an unexpired*  
2 *statement certified in accordance with Section 17926 of the*  
3 *Business and Professions Code is delivered to the financial*  
4 *institution at the time of levy, the fictitious business name statement*  
5 *does not list any person other than the judgment debtor, the*  
6 *judgment debtor's spouse or the judgment debtor's registered*  
7 *domestic partner as the person or persons doing business under*  
8 *the fictitious business name, and, if a person other than the*  
9 *judgment debtor is listed in the statement, an affidavit stating that*  
10 *the other person is the judgment debtor's spouse or registered*  
11 *domestic partner is delivered to the financial institution at the time*  
12 *of the levy.*

13     (4) The additional name of a judgment debtor listed on the writ  
14 of execution legal process pursuant to an affidavit of identity as  
15 provided by Section 680.135, whether alone or together with third  
16 persons.

17     (c) In any case where a deposit account in the name of a person  
18 other than the judgment debtor, whether alone or together with the  
19 judgment debtor, is levied upon, the financial institution shall not  
20 pay to the levying officer the amount levied upon until being  
21 notified to do so by the levying officer. The levying officer may  
22 not require the financial institution to pay the amount levied upon  
23 until the expiration of 15 days after service of notice of levy on  
24 the third person.

25     SEC. 11. Section 701.015 is added to the Code of Civil  
26 Procedure, to read:

27     701.015. (a) The Legislature finds and declares the following:

28     (1) The decision in *Da-Green Electronics, Ltd. v. Bank of Yorba*  
29 *Linda*, (1989) 891 F.2d 1396, which interpreted the law of this  
30 state, rendered the law of this state unclear regarding the duties of  
31 a financial institution that has been served with legal process when  
32 the records of the financial institution indicate that a deposit  
33 account stands in the name of a person who has a name similar  
34 but not identical to the person identified in the legal process as the  
35 judgment debtor, or a person operating under an organizational  
36 structure that is different than the identified organizational  
37 structure, if any, of the judgment debtor whose funds are sought  
38 by the legal process, such as when the judgment debtor is a  
39 corporation and the depositor is a partnership or limited liability

1 company with the same or a substantially similar name as the  
2 corporation.

3 (2) While being mindful of the rights of judgment creditors to  
4 recover their judgments, and of individuals, businesses, and other  
5 organizations who hold deposit accounts to access or realize on  
6 those accounts, the Legislature seeks to provide procedures for the  
7 affected parties to follow when a legal process fails to identify the  
8 judgment debtor in exactly the same fashion as the depositor is  
9 identified on the records of financial institution.

10 (b) If the judgment debtor is identified in the legal process by  
11 a name that is similar but not identical to the name in which the  
12 deposit account or safe deposit box stands according to the financial  
13 institution's records, and, after applying the financial institution's  
14 usual procedures designed to locate accounts and property of  
15 judgment debtors and taking into consideration all of the  
16 circumstances, including, but not limited to, possible spelling errors  
17 and any other information contained in the legal process, and,  
18 including, but not limited to, the judgment debtor's address and  
19 tax identification number, if provided, and comparable information  
20 about the person in whose name the deposit account or safe deposit  
21 box stands contained in the financial institution's records, the  
22 financial institution reasonably concludes that the judgment debtor  
23 and the person in whose name the deposit account or safe deposit  
24 box stands may be the same person, the financial institution shall:

25 (1) Describe the basis for its decision in its garnishee's  
26 memorandum furnished pursuant to Section 701.030, including  
27 the name of the person in whose name the deposit account or safe  
28 deposit box stands according to the financial institution's records.

29 (2) Hold the funds in the account as specified in Section  
30 700.140, or in the case of a safe deposit box, maintain the safe  
31 deposit box as specified in Section 700.150, and furnish one copy  
32 of the garnishee's memorandum to counsel for the judgment  
33 creditor on the same day as the garnishee's memorandum is  
34 furnished to the levying officer pursuant to Section 701.030. The  
35 copy shall be furnished to counsel through the use of that counsel's  
36 electronic mail address, if indicated in the legal process, or, if an  
37 electronic mail address is not indicated in the legal process, through  
38 the use of that counsel's facsimile telephone number, if indicated  
39 in the legal process, or, if neither an electronic mail address or a  
40 facsimile telephone number for that counsel is indicated in the

1 legal process, by first-class mail addressed to that counsel at the  
2 address indicated in the legal process, and the copy shall be deemed  
3 furnished when it is transmitted by electronic mail or telecopy, or  
4 posted by mail, as applicable.

5 (3) Provisionally assume that the legal process applies to the  
6 deposit account or safe deposit box, as applicable, and hold the  
7 funds in the account as specified in Section 700.140, or in the case  
8 of a safe deposit box, maintain the safe deposit box as specified  
9 in Section 700.150, in each case without liability to the person in  
10 whose name the deposit account or safe deposit box stands. The  
11 financial institution shall not pay to the levying officer the amount  
12 in question unless the financial institution is directed in writing to  
13 do so by the levying officer or a court order received by the  
14 financial institution before the close of its business on the fifth  
15 court day after the garnishee's memorandum was furnished as  
16 herein provided. If, by the close of its business on the fifth court  
17 day after the garnishee's memorandum was furnished as herein  
18 provided, the financial institution has not been served with written  
19 directions from the levying officer or a court order instructing the  
20 financial institution to pay the levying officer the amount in  
21 question, or if, before that time the financial institution is served  
22 with written directions from the levying officer or a court order  
23 instructing the financial institution to release the deposit to the  
24 depositor, the financial institution shall thereafter and without  
25 further notice to any party conclusively presume that the legal  
26 process does not apply to the deposit account and release that  
27 account or safe deposit box to the person in whose name the deposit  
28 account or safe deposit box stands without liability to the judgment  
29 creditor.

30 (c) (1) If the name or other information about the judgment  
31 debtor contained in the legal process indicates or suggests that the  
32 judgment debtor operates under a different organizational structure  
33 than the structure indicated by the name in which the deposit  
34 account or safe deposit box stands or by other information in the  
35 financial institution's records for the account or safe deposit box,  
36 the financial institution shall neither treat the deposit account or  
37 safe deposit box as affected by the legal process, nor refer to the  
38 deposit account or safe deposit box in its garnishee's memorandum  
39 furnished pursuant to Section 701.030, even if the name of the

1 judgment debtor is identical or similar to the name of the person  
2 in whose name the deposit account or safe deposit box stands.

3 (2) If the name or names of the judgment debtor, contained in  
4 the legal process, is identical or similar to the name of the person  
5 in whose name the deposit account or safe deposit box stands and  
6 the name or other information about the judgment debtor identified  
7 in the legal process is ambiguous with regard to the organizational  
8 structure under which the judgment debtor operates, but the  
9 financial institution reasonably concludes that the ambiguous  
10 organizational structure may be consistent with the structure  
11 indicated by the name in which the deposit account or safe deposit  
12 box stands or by other information in the financial institution's  
13 records for the account or safe deposit box the provisions of  
14 subdivision (b) shall apply.

15 (3) If the name or names of the judgment debtor contained in  
16 the legal process, regardless of any identified organizational  
17 structure, is identical or similar to the fictitious business name used  
18 by a person in whose name the deposit account or safe deposit box  
19 stands, but is not identical or similar to the owner of that fictitious  
20 business name as shown on the financial institution's records, the  
21 legal process shall not apply to the deposit account or safe deposit  
22 box and the provisions of subdivision (b) shall not apply.

23 (d) If the judgment creditor's counsel receives a copy of the  
24 garnishee's memorandum from the financial institution, as  
25 contemplated by paragraph (2) of subdivision (b), the judgment  
26 creditor may apply to the court, ex parte, for a determination  
27 whether the financial institution shall forward to the levying officer  
28 any funds held provisionally pursuant to paragraph (3) of  
29 subdivision (b) or make the safe deposit box available to the  
30 levying officer, and, in accordance with such subdivision the  
31 financial institution shall act upon any resulting court order timely  
32 received.

33 (e) If the legal process does not identify the judgment creditor's  
34 counsel, all references in this section to that counsel shall instead  
35 refer to the judgment creditor.

36 SEC. 12. Section 701.030 of the Code of Civil Procedure is  
37 amended to read:

38 701.030. (a) At the time of service of a copy of the writ of  
39 execution and a notice of levy legal process on a third person, the  
40 levying officer shall request the third person to give the levying



1 officer a garnishee's memorandum containing the information  
2 required by this section. Within 10 days after the request is made  
3 *legal process is served*, the third person shall mail or deliver the  
4 garnishee's memorandum to the levying officer whether or not the  
5 levy is effective.

6 (b) The garnishee's memorandum shall be executed under oath  
7 and shall contain the following information, *as applicable*:

8 (1) A description of any property of the judgment debtor sought  
9 to be levied upon that is not delivered to the levying officer and  
10 the reason for not delivering the property.

11 (2) A description of any property of the judgment debtor not  
12 sought to be levied upon that is in the possession or under the  
13 control of the third person at the time of levy.

14 (3) A statement of the amount and terms of any obligation to  
15 the judgment debtor sought to be levied upon that is due and  
16 payable and is not paid to the levying officer, and the reason for  
17 not paying the obligation.

18 (4) A statement of the amount and terms of any obligation to  
19 the judgment debtor sought to be levied upon that is not due and  
20 payable at the time of levy.

21 (5) A statement of the amount and terms of any obligation to  
22 the judgment debtor at the time of levy not sought to be levied  
23 upon.

24 (6) A description of claims and rights of other persons to the  
25 property or obligation levied upon that are known to the third  
26 person and the names and addresses of those other persons.

27 (7) *A statement that the garnishee holds neither any property*  
28 *nor any obligations in favor of the judgment debtor.*

29 (8) *Any information required to be included pursuant to*  
30 *paragraph (1) of subdivision (b) of Section 701.015.*

31 (c) If a garnishee's memorandum is received from the third  
32 person, the levying officer shall retain a copy and promptly mail  
33 or deliver a copy of the memorandum to the judgment creditor.

34 (d) Except as provided in subdivisions (e) and (f), if a third  
35 person does not give the levying officer a garnishee's memorandum  
36 within the time provided in subdivision (a), or does not provide  
37 complete information, the third person may, in the court's  
38 discretion, be required to pay the costs and reasonable attorney's  
39 fees incurred in any proceedings to obtain the information required  
40 in the garnishee's memorandum.

(e) Notwithstanding subdivision (a), when the levy is made upon a deposit account or upon property in a safe deposit box, the financial institution need not give a garnishee's memorandum to the levying officer if the financial institution fully complies with the levy and, if a garnishee's memorandum is required, the garnishee's memorandum needs to provide information with respect only to property that is carried on the records available at the office or branch where the levy is made *provided that if a levy has been served at a central location designated by a financial institution in accordance with Section 684.115, the garnishee's memorandum shall apply to all offices and branches of the financial institution except to the extent acceptance of the levy at those central locations is limited pursuant to paragraph (3) of subdivision (a) of Section 684.115.*

(f) Notwithstanding subdivision (a), the third person need not give a garnishee's memorandum to the levying officer if both of the following conditions are satisfied:

(1) The third person has delivered to the levying officer all of the property sought to be levied upon.

(2) The third person has paid to the levying officer the amount due at the time of levy on any obligation to the judgment debtor that was levied upon, and there is no additional amount that thereafter will become payable on the obligation levied upon.

(g) The garnishee may electronically transmit the garnishee's memorandum to the levying officer pursuant to Chapter 2 (commencing with Section 263) of Title 4 of Part 1.

SEC. 13. Section 703.570 of the Code of Civil Procedure is amended to read:

703.570. (a) The hearing on the motion shall be held not later than ~~20~~ 30 days from the date the notice of motion was filed with the court unless continued by the court for good cause.

(b) Not less than 10 days prior to the hearing, the judgment creditor shall serve a notice of the hearing and a copy of the notice of opposition to the claim of exemption on the claimant and on the judgment debtor, if other than the claimant. Service shall be made personally or by mail.

SEC. 14. Section 1450 of the Financial Code is amended to read:

1450. Notice to any bank of an adverse claim (the person making the adverse claim being hereinafter called "adverse

claimant”) to a deposit standing on its books to the credit of or to personal property held for the account of any person shall be disregarded, and the bank, notwithstanding the notice, shall honor the checks, notes, or other instruments requiring payment of money by or for the account of the person to whose credit the account stands and on demand shall deliver that property to, or on the order of, the person for whose account the property is held, without any liability on the part of the bank; subject, however, to the exceptions provided in subdivisions (a) and (b):

(a) If an adverse claimant delivers to the bank at the office at which the deposit is carried or at which the property is held an affidavit of the adverse claimant stating that of the adverse claimant’s own knowledge the person to whose credit the deposit stands or for whose account the property is held is a fiduciary for the adverse claimant and that the adverse claimant has reason to believe the fiduciary is about to misappropriate the deposit or the property, and stating the facts on which the claim of fiduciary relationship and the belief are founded, the bank shall refuse payment of the deposit and shall refuse to deliver the property for a period of not more than three court days (including the day of delivery) from the date that the bank received the adverse claimant’s affidavit, without liability on its part and without liability for the sufficiency or truth of the facts alleged in the affidavit.

(b) If at any time, either before, after, or in the absence of the filing of an affidavit by the adverse claimant, the adverse claimant procures and serves upon the bank at the office at which the deposit is carried or at which the property is held a restraining order, injunction, or other appropriate order against the bank from a court of competent jurisdiction in an action in which the adverse claimant and all persons in whose names the deposit stands or for whose account the property is held are parties, the bank shall comply with the order or injunction, without liability on its part.

(c) This section shall be applicable even though the name of the person appearing on the bank’s books to whose credit the deposit stands or for whose account the property is held is modified by a qualifying or descriptive term such as “agent,” “trustee,” or other word or phrase indicating that the person may not be the owner in his or her own right of the deposit or property.

(d) Nothing in the California Multiple-Party Accounts Law contained in Part 2 (commencing with Section 5100) of Division 5 of the Probate Code limits the applicability of this section.

(e) *For purposes of this section, the term “office at which the deposit is carried” shall mean the branch, office, or other location where the account containing the subject deposit is carried or maintained.*

(f) *Notwithstanding subdivisions (a) and (b), if a central location has been designated by the bank pursuant Section 684.115 of the Code of Civil Procedure for service of legal process, as that term is defined in Section 684.110 of the Code of Civil Procedure, the adverse claimant shall serve a notice of adverse claim or related affidavit, order, injunction, or other order contemplated herein at the central location. If a central location has not but should have been designated by the bank pursuant Section 684.115 of the Code of Civil Procedure for service of legal process, as that term is defined in Section 684.110 of the Code of Civil Procedure, the adverse claimant may serve a notice of adverse claim or related affidavit, order, injunction, or other order contemplated herein at any branch of the institution located in California.*

SEC. 15. Section 1620 of the Financial Code is amended to read:

1620. Notice to a bank operating a safety deposit department or to a company conducting a safety deposit business of an adverse claim (the person making the adverse claim being ~~hereinafter~~ *hereafter* in this section called “adverse claimant”) to any personal property in a safety deposit box maintained by a bank or company and rented to any person, or to any personal property held by the bank or company in safekeeping or storage for any person shall be disregarded, and the bank or company, notwithstanding such notice, shall permit access to the box to the person to whom it is rented or shall deliver the contents thereof to or on the order of the person or shall deliver the property held in storage or safekeeping to or on the order of the person for whom it is held, without any liability on the part of the bank or company; subject, however, to the exceptions provided in subdivisions (a) and (b) of this section:

(a) If an adverse claimant delivers to the bank at the office at which the safety deposit is maintained or the property is held his *or her* affidavit stating that of his *or her* own knowledge the person

1 in whose name the box stands or for whom the property is held is  
2 a fiduciary for the adverse claimant and that he *or she* has reason  
3 to believe—~~such~~ *that* fiduciary is about to misappropriate the  
4 contents of the box or the property, and stating the facts upon  
5 which—~~such~~ *the* claim of fiduciary relationship and—~~such~~ *the* belief  
6 are founded, the bank or company shall refuse access to the safety  
7 deposit box or refuse to deliver the personal property for a period  
8 of not more than three—(3) court days (including the day of delivery)  
9 from the date that the bank or company received the adverse  
10 claimant's affidavit, without liability on its part and without  
11 liability for the sufficiency or truth of the facts alleged in the  
12 affidavit.

13 (b) If at any time, either before, after, or in the absence of the  
14 filing of an affidavit by the adverse claimant, the adverse claimant  
15 procures and serves upon the bank or company at the office at  
16 which the safety deposit box is maintained or the property is held  
17 a restraining order, injunction, or other appropriate order against  
18 the bank or company from a court of competent jurisdiction in an  
19 action in which the adverse claimant and all persons in whose  
20 names—~~said~~ *the* box stands or for whom the property is held are  
21 parties, the bank or company shall comply with—~~such~~ *that* order or  
22 injunction, without liability on its part.

23 (c) The provisions of this section shall be applicable even though  
24 the name of the person appearing on the bank's or company's  
25 books as the renter of the box or as the depositor of the property  
26 held in storage or safekeeping is modified by a qualifying or  
27 descriptive term such as "agent," "trustee," or other word or phrase  
28 indicating that the person may not be the owner in his *or her* own  
29 right of the contents of the box or of the property held in storage  
30 or safekeeping.

31 **Before**

32 (d) *Before* giving access to any safe-deposit box, the bank or  
33 company may demand payment to it of all costs and expenses of  
34 opening the safe-deposit box and all costs and expenses of repairing  
35 any damage to the safe-deposit box caused by the opening thereof.

36 (e) *Notwithstanding subdivisions (a) and (b), if a central location*  
37 *has been designated by the bank pursuant Section 684.115 of the*  
38 *Code of Civil Procedure for service of legal process, as that term*  
39 *is defined in Section 684.110 of the Code of Civil Procedure, the*  
40 *adverse claimant shall serve a notice of adverse claim or related*

1 *affidavit, order, injunction, or other order contemplated herein at*  
2 *the central location. If a central location has not but should have*  
3 *been designated by the bank pursuant Section 684.115 of the Code*  
4 *of Civil Procedure for service of legal process, as that term is*  
5 *defined in Section 684.110 of the Code of Civil Procedure, the*  
6 *adverse claimant may serve a notice of adverse claim or related*  
7 *affidavit, order, injunction, or other order contemplated herein at*  
8 *any branch of the institution located in California.*

9 SEC. 16. Section 1755 of the Unemployment Insurance Code  
10 is amended to read:

11 1755. (a) If any person or employing unit is delinquent in the  
12 payment of any contributions, penalties or interest provided for in  
13 this division, the director may, not later than three years after the  
14 payment became delinquent or within 10 years after the last entry  
15 of a judgment under Article 5 (commencing with Section 1815)  
16 or within 10 years after the last recording or filing of a notice of  
17 state tax lien under Section 7171 of the Government Code, collect  
18 the delinquency or enforce any liens by levy served either  
19 personally or by first-class mail, to all persons having in their  
20 possession or under their control any credits or personal property  
21 belonging to the delinquent person or employing unit, or owing  
22 any debts to the person or employing unit at the time of the receipt  
23 of the notice of levy or coming into their possession or under their  
24 control for the period of one year from the time of receipt of the  
25 notice of levy. Any person upon whom a levy has been served  
26 having in his or her possession or under his or her control any  
27 credits or personal property belonging to the delinquent person or  
28 employing unit or owing any debts to the person or employing  
29 unit at the time of the receipt of the levy or coming into his or her  
30 possession or under his or her control for the period of one year  
31 from the time of receipt of the notice of levy, shall surrender the  
32 credits or personal property to the director or pay to the director  
33 the amount of any debt owing the delinquent employer within five  
34 days of service of the levy, and shall surrender the credits or  
35 personal property, or the amount of any debt owing to the  
36 delinquent employer coming into his or her possession or under  
37 his or her control within one year of receipt of the notice of levy  
38 within five days of the date of coming into possession or control  
39 of the credits or personal property, or the amount of any debt owing  
40 to the delinquent employer is incurred. Any person in possession

1 of any credits or personal property or owing any debts to the  
 2 delinquent person or employing unit who surrenders the credits or  
 3 personal property or pays the debts owing the delinquent person  
 4 or employing unit shall be discharged from any obligation or  
 5 liability to the delinquent person or employing unit with respect  
 6 to the credits or personal property surrendered or debts paid to the  
 7 director. If the levy is made on a deposit or credits or personal  
 8 property in the possession or under the control of a bank or savings  
 9 and loan association, the notice of levy shall be delivered or mailed  
 10 to the centralized processing unit or location designated by that  
 11 bank or savings and loan association where the credits or other  
 12 property are held. ~~If the levy is made on a bank or savings and~~  
 13 ~~loan association, it will apply to all credits or personal property as~~  
 14 ~~provided in this section, except that it will apply to credits and~~  
 15 ~~personal property in a deposit account, as defined in paragraph~~  
 16 ~~(29) of subdivision (a) of Section 9102 of the Commercial Code,~~  
 17 ~~only at the time the notice of levy is received by the bank or savings~~  
 18 ~~and loan association. For purposes of this section, the term "office~~  
 19 ~~at which the deposit is carried" shall mean the branch, office, or~~  
 20 ~~other location where the account containing the subject deposit~~  
 21 ~~is carried or maintained.~~

22 (b) *If the person to be served with a levy pursuant to subdivision*  
 23 *(a) is a financial institution, the levy will apply to that deposit only*  
 24 *to the extent of the funds held on deposit at the time the notice of*  
 25 *levy is received by the financial institution.*

26 (c) *Notwithstanding subdivision (a), if the person to be served*  
 27 *with a levy pursuant to subdivision (a) is a financial institution*  
 28 *and the levy applies to a deposit account maintained by that*  
 29 *financial institution, and a central location has been designated*  
 30 *by the bank pursuant Section 684.115 of the Code of Civil*  
 31 *Procedure for service of legal process, as that term is defined in*  
 32 *Section 684.110 of the Code of Civil Procedure, the adverse*  
 33 *claimant shall serve a levy contemplated herein at the central*  
 34 *location. If a central location has not but should have been*  
 35 *designated by the bank pursuant Section 684.115 of the Code of*  
 36 *Civil Procedure for service of legal process, as that term is defined*  
 37 *in Section 684.110 of the Code of Civil Procedure, the adverse*  
 38 *claimant may serve a levy contemplated herein at any branch of*  
 39 *that institution located in California.*

1 SEC. 17. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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